



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,014	06/22/2001	John Timms	821-86	8045
7590 12/14/2005			EXAMINER	
Bhupinder S. Randhawa			MCALLISTER, STEVEN B	
Bereskin & Parr			ART UNIT	
Box 401			PAPER NUMBER	
40 King Street West			3627	
Toronto, ON M5H 3Y2			DATE MAILED: 12/14/2005	
CANADA				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/886,014	<b>Applicant(s)</b> TIMMS ET AL.	
	<b>Examiner</b> Steven B. McAllister	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,5-10,13-18, 21-26,30, 35-38,40-53 is/are pending in the application.
- 4a) Of the above claim(s) 18,21-26,30,35-37 and 45-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-10,13-17,38 and 40-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group I, claims 1, 5-10, 13-17, 38, 40-44, in the reply filed on 9/23/2005 is acknowledged.

Claims 18, 21-26, 30, 35-37, and 45-53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/23/2005.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*1, 5-10, 13-18, 38 and 40-44 SM*  
Claims ~~XXX~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cugley et al (5,137,340) in view of Cohen et al (6,507,352).

As to claims 1 and 38, Cugley shows stocking a plurality of varieties of fasteners in selected locations, each location identifiable by visible retail location identifiers, wherein the varieties of fasteners are stocked in predetermined containers, each container containing one of the varieties of fasteners and having a visible identifier on the container. Cugley also shows providing customers access to merchandising information comprising: icons comprising graphical images of the fasteners; fastener

Art Unit: 3627

information; a display of the retail location of the fastener comprising a container identifier. It is noted that the information is organized according to fastener varieties. Cugley also shows allowing consumers access to the fasteners.

Cugley does not show that providing access to the disclosed information via merchandising software having a user interface for receiving input; and programmed to display the fastener pages having icons, information and locations, wherein the user determines the display of the pages.

Cohen et al show merchandising software having a user interface for receiving input; and programmed to display the item pages having icons, information and locations, wherein the user determines the display of the pages.

It would have been obvious to one of ordinary skill in the art to modify the method of Cugley by providing the software of Cohen in order to automate the display of the information, and in order to provide related information, such as up to date price information, and links to further information on manufacturer web pages.

As to claims 5, 16 and 17, Cugley in view of Cohen shows video demonstration of the use of at least some fasteners (e.g., col. 8, lines 37-48 of Cohen).

As to claim 6, Cugley in view of Cohen show a touch screen and that (b) is carried out at the store.

As to claims 7-10, Cugley in view of Cohen show all elements of the claims except carrying out step (b) remote from the retail outlet via a network browser. However, the examiner takes official notice that to do so is notoriously old and well known in the art. It would have been obvious to further modify the method of Cohen in order to facilitate comparison by the shopper in his home.

(Regarding claim 8 above, it is noted that in providing access to the software at a server via a network as in claim 9, the software is being provided to the customer on a pre-recorded medium, the server hard drive).

Alternatively, Cugley in view of Cohen shows all elements of claim 8 except physically giving the customer the software via a pre-recorded medium, such as a floppy disk. However, the examiner takes official notice that to distribute software in this manner is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to do so in order to take advantage of simple, inexpensive and readily available technology and to allow the customer to select the items at his leisure in his home.

As to claims 13 and 15, Cugley in view of Cohen show all elements except providing real time stock availability information. However, the examiner takes official notice that to provide stock availability information is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Cugley by providing stock information in order to allow the user to determine whether the store has enough to satisfy his needs.

As to claim 14, Cugley in view of Cohen show all elements except providing location information in two or more retail establishments. However, the examiner takes official notice that to provide information regarding two or more retail establishments is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Cugley by providing such information in order to provide information relating to a nearby branch when the present location is out of stock.

Alternatively, as to claim 16, Cugley in view of Cohen show all elements except providing graphical instructions describing the use of the product. However, the examiner takes official notice that it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the art to further modify the method of Cugley by providing graphical instructions describing the use of the product in order to facilitate its proper use.

As to claim 41, Cugley in view of Cohen show providing a section identifier comprising a code for identifying a group of shelves (e.g., the aisle and shelf location as shown in Cohen).

As to claim 42, Cugley in view of Cohen show color coding container identifiers (see background of Cugley).

Alternatively, Cugley in view of Cohen show all elements except color coding the identifiers. However, the examiner takes official notice that to do so is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art

Art Unit: 3627

to further modify the method of Cugley by color coding the identifiers to quickly identify a group of related drawers in zeroing in on the specific drawer.

As to claim 43, Cugley in view of Cohen show a graphical representation of the fastener type and use information (see e.g., wood screw and marine cotter pin).

As to claim 44, Cugley in view of Cohen show all elements except a graphical representation of a recommended use of the product. However, the examiner takes official notice that providing such a graphical representation is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to further modify the method of Cugley by providing a graphical representation of a recommended use in order to further clarify the use.

Alternatively, Cugley in view of Cohen show the graphical representation of a recommended use via the video demonstration of the product.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

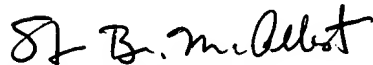
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3627

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven B. McAllister

Steven B. McAllister  
Primary Examiner  
Art Unit 3627

**STEVE B. McALLISTER**  
**PRIMARY EXAMINER**